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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,317	09/13/2001	Gerhard Babuke	127FR/50019	8927

7590 10/21/2002  
Crowell & Moring  
P O Box 14300  
Washington, DC 20044-4300

EXAMINER

MCCLLOUD, RENATA D

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/868,317	<b>Applicant(s)</b> BABUKE ET AL.	
	<b>Examiner</b> Renata McCloud	<b>Art Unit</b> 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s): _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 17 recites the limitation "said bevel cuts". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 17, 18, 19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckel (U.S. Patent 5,780,785).

Eckel teaches the following: referring to claims 11 and 21, a base layer (e.g. Figure 1, Item 10), a columnar structure positioned directly on the base layer and having a non-symmetrical distribution of height and cross section forming a moderator gap (e.g. Figure 1, Item 50), the columnar height corresponds to the density of the base (e.g. Column 2, Lines 37-46), the columnar structure having a framework resonance adjustable as a function of parameters of the base layer (e.g. Column 2, Lines 47-57), and the structured pre-form bodies comprising open-

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celled foam material having a rigid framework vibrating at low frequencies (e.g. Column 7, Lines 37-51);

referring to claim 17, acoustically transmissive covers of non-woven or woven material or soft cellular material supported on a plane of a bevel cut on a room side (e.g. Abstract, Lines 1-4);

referring to claim 18, perforated panels in front of the pre-form bodies fastened to a wall by spacers (e.g. Column 4, Lines 54-56);

referring to claim 19, the pre-form bodies being self-supporting due to one of their material or shapes (e.g. Column 5, Lines 5-6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckel (U.S. Patent 5,780,785) as applied to claim 1 above, in view of D'Antonio (U.S. Patent 5,665,943).

Eckel teaches the invention of claim 11. However, Eckel does not teach the open-cell foam material comprising a melamine resin. D'Antonio teaches this (e.g. Column 3, Lines 14-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Eckel to include the open-cell foam material being

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comprised of melamine resin as taught by D'Antonio. The advantage of this would be the increased thermo-resistance of the liner.

4. Claims 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckel (U.S. Patent 5,780,785) as applied to claim 1 above, in view of Eckel (U.S. Patent 3,712,413).

Referring to claim 13, Eckel (U.S. Patent 5,780,785) teaches the columnar structure having a one-bevel (e.g. Figure 1, Item 76) cut on a room side (e.g. Figure 1, Item 20). However Eckel does not teach the moderator gap being a one-side bevel. Eckel (U.S. Patent 3,712,413) teaches this (e.g. Figure 5, between Items 10c and 14c). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Eckel (U.S. Patent 5,780,785) to include the moderator gap being a one-side bevel as taught by Eckel (U.S. Patent 3,712,413). The advantage of this would be an improvement in sound absorption.

Referring to claim 14, Eckel (U.S. Patent 5,780,785) teaches the bevel cuts being configured to alternate in at least one of a vertical or a horizontal direction (e.g. Figure 1, Items 50 and 70) .

Referring to claim 16, Eckel (U.S. Patent 5,780,785) teaches the bevel cuts having an angle of roughly 35 degrees relative to the plane of the wall (e.g. Column5, Lines 40-45).

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5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckel (U.S. Patent 5,780,785) in view of Eckel (U.S. Patent 3,712,413) as applied to claim 13 above and further in view of Hayashi et al (U.S. Patent 5,892,188).


Eckel (U.S. Patent 5,780,785) in view of Eckel (U.S. Patent 3,712,413) teaches the invention of claim 13. However, Eckel in view of Eckel does not teach the bevel cuts being shortened and flattened by up to 30 mm. Hayashi et al teach this (e.g. Column 4, Lines 48-50, Figure 26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Eckel (U.S. Patent 5,780,785) in view of Eckel (U.S. Patent 3,712,413) to include shortening and flattening the bevel cuts up to 30 mm as taught by Hayashi et al. the advantage of this would be improved sound absorption.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (703) 308-1763. The examiner can normally be reached on Mon.-Thurs and every other Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
ROBERT E. NAPPI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

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Renata McCloud  
Examiner  
Art Unit 2837

RDM  
October 10, 2002

***Conclusion***